

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 DAVID LOUIS WHITEHEAD,) Case No. CV 12-08970 SVW (PLAx)
12 Plaintiff,)
13 v.) **ORDER DENYING PLAINTIFF'S MOTION**
14 SONY INC., COLUMBIA) **TO DISQUALIFY JUDGE WILSON**
PICTURES, INC.; AEG LIVE AND)
15 ANSHUTZ COMPANY; JOHN)
BLANCA; JOHN McCLAIN; et al.)
16)
17 Defendants.)

18 This matter comes before the court on Plaintiff David Louis
19 Whitehead's Motion for Recusal under 28 U.S.C. § 455. Having
20 reviewed Plaintiff's submission, the court DENIES the motion and
21 adopts the following order.

22 A judge "shall disqualify himself in any proceeding in which
23 his impartiality might reasonably be questioned" and in proceedings
24 in which "he has a personal bias or prejudice concerning a party,
25 or personal knowledge of disputed evidentiary facts concerning the
26 proceeding." 28 U.S.C. § 455(a) & (b)(1). The Ninth Circuit has
27 articulated the standard for disqualification under § 455 as
28 follows:

1 The test under § 455(a) is whether a reasonable person with
2 knowledge of all the facts would conclude that the judge's
3 impartiality might reasonably be questioned. Typically, a
4 judge's partiality must be shown to be based on information
5 from extrajudicial sources, although sometimes, albeit
6 rarely, predispositions developed during the course of a
trial will suffice. In the instance where the partiality
develops during the course of the proceedings, it can be the
basis of recusal only when the judge displays a deep-seated
and unequivocal antagonism that would render fair judgment
impossible.

7 F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc., 244 F.3d
8 1128, 1144-45 (9th Cir. 2001) (internal quotations and citations
9 omitted).

10 Plaintiff asserts that Judge Steven V. Wilson is biased
11 against him based on the fact that Judge Wilson rejected
12 Plaintiff's pleadings instead of allowing them to be filed, despite
13 the fact that he is a pro se litigant.¹ No reasonable person could
14 conclude from these assertions that Judge Wilson bears a "deep-
15 seated and unequivocal antagonism" toward Plaintiff "that would
16 render fair judgment impossible." F.J. Hanshaw Enters., 244 F.3d
17 at 1144-45. Accordingly, the Motion for Recusal is DENIED.

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19 IT IS SO ORDERED.

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21 Dated: December 14, 2012



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26 DEAN D. PREGERSON
27 United States District Judge

28 ¹The docket indicates that Plaintiff's filing was rejected
based on its lack of name, address, phone, facsimile number, and
email address; the failure to provide a copy for the judge; and the
failure of the proof of service to list the parties to which
service was made. (Dkt. No. 11.)